

CHAPTER XI: PUBLIC OFFENSES

Article

- 1. UNIFORM OFFENSES CODE**
- 2. LOCAL REGULATIONS**
- 3. LOCAL REGULATIONS; NOISE**

ARTICLE 1: UNIFORM OFFENSES CODE

Section

- 11-101 Incorporating Uniform Public Offense Code
- 11-102 Amendments; Uniform Public Offense Code
- 11-103 Amendments; Uniform Public Offense Code
- 11-104 Amendments; Uniform Public Offense Code
- 11-105 Amendments; Uniform Public Offense Code

' 11-101 INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Burlington, Kansas, that certain code known as the AUniform Public Offense Code@, latest edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said AUniform Public Offense Code@ shall be marked or stamped AOfficial Copy as Adopted by Ord. ____@, with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this article, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, City Clerk and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such APublic Offense Code@ similarly marked, as may be deemed expedient.

(1997 Code, ' 11-101) (Ord. 845, adopted 8-3-2016)

' 11-102 AMENDMENTS; UNIFORM PUBLIC OFFENSE CODE.

Article 2 of said Uniform Public Offense Code is hereby supplemented by adding the following section.

2.3 Use of Force in Resisting Arrest.

A person is not authorized to use force to resist arrest which he or she knows is being made either by a law enforcement officer or by a private person summoned and directed by a law enforcement officer to make the arrest, even if the person arrested believes that the arrest is unlawful.

(K.S.A. 21-3217) (1997 Code, ' 11-102) (Ord. 845, adopted 8-3-2016)

' 11-103 AMENDMENTS; UNIFORM PUBLIC OFFENSE CODE.

Article 6 of said Uniform Public Offense Code is hereby supplemented by adding the following section.

6.7.2 Trespassing for Purpose of Parking Vehicle.

Trespassing for the purpose of parking a vehicle is going upon the property owned or occupied by another person for the purpose of parking any vehicle upon such property.

Trespassing for the purpose of parking a vehicle is a Class C violation.
(1997 Code, ' 11-103) (Ord. 845, adopted 8-3-2016)

' 11-104 AMENDMENTS; UNIFORM PUBLIC OFFENSE CODE.

Article 7, AOffenses Affecting Governmental Functions@ of said Uniform Public Offense Code is hereby supplemented by adding the following ' 7.15.

7.15 Intimidation of a Witness.

(1) Intimidation of a witness or victim.

(a) It shall be unlawful to prevent or attempt to prevent any witness or victim from giving testimony, attending court or making any report or statement to any law enforcement officer or prosecutor.

(b) It shall be unlawful to prevent or attempt to prevent any person from acting on behalf of a victim, from giving testimony, attending court or making any report or statement to any law enforcement officer or prosecutor.

Violation of this section is a Class B violation.

(2) Intimidation of a witness or victim by force or threat of force.

(a) Any intimidation of a witness or victim that includes an expressed or implied threat of force or violence against a witness, victim or other person or the property of any witness, victim or other person, shall be a Class A violation.

(Ord. 845, adopted 8-3-2016)

' 11-105 AMENDMENTS; UNIFORM PUBLIC OFFENSE CODE.

Article 10 of said AUniform Public Offense Code@ is hereby supplemented by adding the following sections.

10.27 Molotov Cocktails.

Unlawful possession, use and transportation of AMolotov cocktails@ is the transporting, use or possession or control of a container of incendiary or explosive material, liquid, solvent or mixture, equipped with a fuse, wick or detonating device of a kind commonly known as AMolotov cocktail@.

Unlawful possession, use and transportation of AMolotov cocktail@ is a Class A Violation.

10.28 Dangerous Missiles.

It shall be unlawful for any person to throw or project any stone, brick, egg, piece of wood, clay or other hard substance along, over or upon any street, alley, sidewalk or public ground or at or against any house, vehicle or at or towards any person.

Violation of this section is a Class A violation.

10.29 Drugs, Marijuana.

(a) It shall be unlawful for any person to manufacture, possess, have under his or her control, prescribe, administer, deliver, distribute, dispense, compound, sell or offer for sale any depressant, stimulant or hallucinogenic drug in violation of the Kansas Controlled Substances Act.

(b) It shall be unlawful for any person to have in his or her possession any marijuana in violation of the Kansas Controlled Substance Act.

Violation of this section is a Class B violation.

10.30 Reserved for Future Use.

10.31 Possession of Drug Paraphernalia.

(a) ADrug Paraphernalia@ means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. ADrug paraphernalia@ shall include, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is controlled substance or from which a controlled substance can be derived.

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana.

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in packaging small quantities of controlled substances.

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.

(10) Containers and other objects used or intended for use in storing or concealing controlled substances.

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(11) Hypodermic syringes, needles and other objects used or intended for use in injecting controlled substances into the human body.

(12) Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as;

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish or punctured metal bowls;

(B) Water pipes;

(C) Carburetion tubes and devices;

(D) Smoking and carburetion masks;

(E) Roach clips (objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand);

(F) Miniature cocaine spoons and cocaine vials;

(G) Chamber pipes;

(H) Carburetor pipes;

(I) Electric pipes;

(J) Air-driver pipes;

(K) Chillums;

(L) Bongs; and

(M) Ice pipes or chillers.

(b) A Person@ means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

(c) A Simulated controlled substance@ means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

A violation of this section is a Class A violation.

(K.S.A. 65-4150 et seq.) (1997 Code, ' 11-105) (Ord. 845, adopted 8-3-2016)

ARTICLE 2: LOCAL REGULATIONS

Section

- 11-201 Water pollution
- 11-202 Deposits in Rock Creek
- 11-203 Disturbing libraries or schools
- 11-204 Window peeping
- 11-205 Halloween curfew
- 11-206 Same; exceptions
- 11-207 Same; violations
- 11-208 Same; penalty
- 11-209 Posting bills

' 11-201 WATER POLLUTION.

It shall be unlawful for any person to cast any stone, stick, clay or any other substance whatsoever in the basins or reservoir of the water plant or in any manner pollute the waters thereof or in any way to pollute the source of the water supply.

(1997 Code, ' 11-201)

' 11-202 DEPOSITS IN ROCK CREEK.

It shall be unlawful for an person to place or deposit or cause to be placed or deposited any rags, straw, fruit, vegetable or carcass or part of carcass of any dead animal or fowl, or any wood, iron, rock, boxes, barrels, pieces of machinery, waste oil and grease, pieces of vehicles or any other substance, article or thing in the channel or upon a bank of Rock Creek, or to drain or cause to be drained any night soil, filth or any sewage in Rock Creek, or in any manner to obstruct the channel of Rock Creek within this city.

(1997 Code, ' 11-202)

' 11-203 DISTURBING LIBRARIES OR SCHOOLS.

It shall be unlawful for any person to disrupt the normal activity or disturb the peace of any public library or of any public or private school and/or assembly of students for any school activities or athletic events conducted such public or private school.

(1997 Code, ' 11-203)

' 11-204 WINDOW PEEPING.

(a) No unauthorized person shall enter or remain upon or in, any land or structure owned or occupied by another for the purpose of looking into or peeping into any window, door, skylight or other opening in any house or building occupied by any person.

(b) No unauthorized person shall operate or fly a remotely controlled aircraft, commonly referred to as a drone, in such a manner as to allow to record or observe a person or persons in or around a house, building or structure where a reasonable person would believe that a right to privacy exists.
(1997 Code, ' 11-205) (Ord. 510, adopted 9-8-1991)

' 11-205 HALLOWEEN CURFEW.

It is hereby declared unlawful for any person under the age of 18 years of age to loiter, lounge, loaf, wander, or play in or upon any public street, alley, public park, square or municipal parking lot or any sidewalk appurtenant thereto within the city after the hour of 10:00 p.m. on Halloween Day, October 31 and before the hour of 6:00 a.m. the following day.

(1997 Code, ' 11-206) (Ord. 552, adopted 10-20-1993)

' 11-206 SAME; EXCEPTIONS.

The curfew restrictions set out in ' 11-205 shall not apply under the following circumstances:

(a) When the person under 18 years of age is accompanied by his or her parent or guardian;

(b) When the person under 18 years of age is going to or from a place of lawful employment by way of the most direct route; or

(c) When the person under 18 years of age is engaged in normal travel through, to or from the city to another destination.

(1997 Code, ' 11-207) (Ord. 552, adopted 10-20-1993)

' 11-207 SAME; VIOLATIONS.

(a) Any police officer finding a person under 18 years of age in violation of ' 11-205 shall ascertain the name and address of the minor and warn the minor that he or she is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode.

(b) If any minor refuses to heed the warning or direction of any police officer or refuses to give his or her correct name and address, he or she shall be taken to the Police Department and the parent, guardian or other adult having the care and custody of the minor shall be notified to come and take charge of the minor.

(c) Permitting violation of curfew: it shall be unlawful for a parent, guardian or other person lawfully entitled to the care, custody or control of any person under 18 years of age to knowingly suffer or permit such person to violate ' 11-205.

(1997 Code, ' 11-208) (Ord. 552, adopted 10-20-1993)

' 11-208 SAME; PENALTY.

Violation of ' 11-205 is a Class C misdemeanor, as defined by the Uniform Public Offense Code of the city.

(1997 Code, ' 11-209) (Ord. 552, adopted 10-20-1993)

' 11-209 POSTING BILLS.

It shall be unlawful for an person to post or put upon any handbills, advertisements, posters, show bills or other signs on any building, pole or property in or along any public street or way of the city without the permission of the owner thereof.

(1997 Code, ' 11-210)

ARTICLE 3: LOCAL REGULATIONS; NOISE

Section

- 11-301 Statement of intent
- 11-302 Definitions
- 11-303 General prohibitions
- 11-304 Specific prohibitions
- 11-305 Abatement orders
- 11-306 Crowds and parties
- 11-307 Notice of violation
- 11-308 Other remedies
- 11-309 Exceptions

' 11-301 STATEMENT OF INTENT.

No provision of this article shall be construed to limit or abridge the rights of any person, to speak, peacefully assemble and express opinions. It is the purpose of this section to protect individuals from unreasonable intrusions caused by excessive, unnecessary or unusually loud noises.
(1997 Code, ' 11-301) (Ord. 495, adopted 11-7-1990)

' 11-302 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

MOTOR VEHICLE. Every vehicle defined as a **MOTOR VEHICLE** in the Standard Traffic Ordinance as adopted by the city.

MOTORCYCLE. Every vehicle defined as a **MOTORCYCLE** in the Standard Traffic Ordinance as adopted by the city.

MOTORIZED BICYCLE. Every vehicle defined as a **MOTORIZED BICYCLE** in the Standard Traffic Ordinance as adopted by the city.

NEIGHBORING INHABITANTS. Those persons in single-family dwellings, multiple-family dwellings, boarding house rooms, hotel rooms or motel rooms within the vicinity of noise.

NOISE. Any sound which annoys or disturbs or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE. Any sound which:

- (1) Endangers or injures the safety or health of humans or animals;
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

PERSON. Any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

POWERED MODEL VEHICLE. Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designated to carry persons including, but not limited to, any model airplane, boat, car or rocket.

PUBLIC RIGHT-OF-WAY. Any street, avenue, boulevard, highway, sidewalk or alley.

REAL PROPERTY BOUNDARY. The property line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

RESIDENTIAL AREA. Single-family, two-family and multi-family zoning district classifications.

SOUND. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal or interval forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of **SOUND** may include any characteristic of such sound, including duration, intensity and frequency.

(1997 Code, ' 11-302) (Ord. 495, adopted 11-7-1990)

' 11-303 GENERAL PROHIBITIONS.

(a) In addition to the specific prohibitions outlined on this section, no person shall unreasonably make, continue or cause to be made, continued or permitted, any noise disturbance.

(b) This section shall not apply to noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way which is otherwise authorized.

(1997 Code, ' 11-303) (Ord. 495, adopted 11-7-1990)

' 11-304 SPECIFIC PROHIBITIONS.

The following acts, and the causing or permitting thereof, are hereby declared to be in violation of this article.

(a) *Emergency signaling devices.*

(1) (A) It shall be unlawful to intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in this section.

(B) Testing of a signaling device shall not occur before 7:00 a.m. or after 10:00 p.m. of the closing time of a commercial establishment, whichever shall occur later. Any testing shall issue only the minimum cycle test time.

(2) It shall be unlawful to sound or permit the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within two minutes of activation, or within a reasonable time after notification of activation.

(b) *Powered model vehicles.* It shall be unlawful to operate or permit the operation of a powered model vehicle or vehicles so as to create a noise disturbance cross a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m.

(c) *Radios, television sets, musical instruments and similar devices.* It shall be unlawful to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument or similar device:

(1) In such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, as to create a noise disturbance across a residential real property boundary, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such instrument or device is operated and who are voluntary listeners thereto; or

(2) In such a manner as to create a continuing noise disturbance at 50 feet (15.25 meters) from such device, when operated in or on a motor vehicle on a public right-of-way or space open to the public.

(d) *Vehicle or motorboard repairs and testing.* It shall be unlawful to repair, rebuild, modify or test any motor vehicle, motorcycle, motorized bicycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary in any residential district, between the hours of 10:00 p.m. and 7:00 a.m.

(1997 Code, ' 11-304) (Ord. 495, adopted 11-7-1990)

' 11-305 ABATEMENT ORDERS.

In lieu of issuing a notice of violation, any city law enforcement officer may issue an order requiring the immediate abatement of any source of sound in violation of this article.
(1997 Code, ' 11-305) (Ord. 495, adopted 11-7-1990)

' 11-306 CROWDS AND PARTIES.

No person shall congregate with other persons because of, participate in or be in any part of gathering of people from which sound emanates of a sufficient volume so as to be a violation of this section. No person shall visit or remain within any residential dwelling unit wherein such party or gathering of people is taking place except persons who have gone there for the sole purpose of abating the disturbance. A police officer shall order all persons present in any group or gathering from which such sound emanates, other than owners or tenants of the dwelling unit, to immediately disperse in lieu of being charged under this section, failure to disperse shall subject such person or persons to being so charged. Owners or tenants of the dwelling unit shall immediately abate the disturbance and failing to do so, shall be in violation of this article.
(1997 Code, ' 11-306) (Ord. 495, adopted 11-7-1990)

' 11-307 NOTICE OF VIOLATION.

Except where a person is acting in good faith to comply with an abatement order issued pursuant to this article, any violation shall be cause for a notice of violation to be issued by any city law enforcement officer.
(1997 Code, ' 11-307) (Ord. 495, adopted 11-7-1990)

' 11-308 OTHER REMEDIES.

No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from the violation of this section.
(1997 Code, ' 11-308) (Ord. 495, adopted 11-7-1990)

' 11-309 EXCEPTIONS.

Provided however, that the provisions of this section shall not apply to the following:

(a) The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work;

(b) Noise resulting from activities of a temporary duration planned by school, governmental or community groups;

(c) Trash and waste pickup operations;

(d) Church bells and campanile chimes; and

(e) Air conditioners.

(1997 Code, ' 11-309) (Ord. 495, adopted 11-7-1990)

